

**Testimony of Francis C. Record**  
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**to the**  
**House Committee on Homeland Security**  
**Subcommittee on Prevention of Nuclear and Biological Attack**

**“Enlisting Foreign Cooperation in U.S. Efforts to Prevent Nuclear Smuggling”**

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**Introduction**

Mr. Chairman, I want to start by thanking you, along with Ranking Member Langevin and the other distinguished members of the subcommittee, for giving me the opportunity today to address one of our most urgent national security priorities.

Over the last decade, the nuclear threat to our national and homeland security has undergone a fundamental transformation. Today we face the risk of a terrorist acquiring nuclear and radiological material from shadowy networks of smugglers, state sponsors of terrorism, and organized criminal elements, and then deploying such material in the form of a nuclear device or dirty bomb against one of our cities.

We recognize that we cannot meet this challenge alone and must work with like-minded nations around the world that will join with us to achieve this objective. Building on the Department of State’s lead responsibility to engage foreign governments and institutions, we place the highest emphasis on enlisting foreign cooperation to prevent nuclear smuggling. We currently manage a number of programs and initiatives that address this issue, both through the provision of financial assistance to foreign governments as well as through cooperative activities to deter, interdict, and prevent terrorist acquisition and use of nuclear and radiological material.

Let me begin by making two overarching points about our approach to enlisting international cooperation in this mission. First, the State Department’s overseas efforts to prevent nuclear smuggling build on years of collaboration with the Departments of Energy and Defense, as well as the establishment of cooperative links with the recently-established Domestic Nuclear Detection Office (DNDO). Second, we must recognize that each country faces unique challenges to do their part to prevent terrorists from acquiring or using a nuclear weapon. In fact, no two countries share identical risks from nuclear smuggling or nuclear terrorism. Some countries may suffer from poor border controls and lack the laws, regulations, and enforcement capacity to stop nuclear smuggling. Other countries may have laws and the security forces to interdict and bring to justice nuclear smugglers but only limited means to detect the movement of material or related illicit transactions. To succeed in this complex environment, we must ensure that

our risk assessments and our programs account for country and region-specific factors. In short, diplomatic approaches that may work with one country or a group of countries will often not work with others.

Today, I will provide an overview of Department programs and initiatives established in whole or in part to prevent nuclear smuggling. I will also explain how our recent reorganization has strengthened our ability to implement Secretary Rice's vision of Transformational Diplomacy.

There are four specific programs and initiatives in this area – the Export Control and Related Border Security program, the Proliferation Security Initiative, the Nuclear Smuggling Outreach Initiative, and the Nuclear Trafficking Response Group – and I will begin first with an overview of our Export Control and Border Assistance Program.

### **Export Control and Related Border Security Assistance**

The Export Control and Related Border Security (EXBS) program is designed to help key source, transit and transshipment countries develop and improve their strategic trade and related border control systems. In developing and improving these systems, we work to ensure conformity with international standards for controlling items on the control lists of the nonproliferation export control regimes, to prevent the authorization of transfers to end-uses and end-users of proliferation concern, and to detect and interdict illicit transfers at the border. In building countries' capacity in this critical area, the EXBS program helps key partners meet their obligations and commitments pursuant to other important U.S. and international initiatives, including U.N. Security Council Resolution 1540, the Proliferation Security Initiative, and adherence to the multilateral export control regimes, and it advances U.S. efforts to establish a global WMD detection architecture.

With respect to the deployment of radiation detection equipment, the State Department's Office of Export Control Cooperation, which manages the EXBS program, has two main roles. The first is to coordinate with and support the efforts of other U.S. agencies in order to avoid duplication and ensure that deployments occur on a prioritized basis, and the second is to facilitate the efforts of other agencies, including helping them conclude government-to-government agreements. While the Department of Energy's National Nuclear Security Administration (NNSA) provides the bulk of the radiation portal monitors deployed to foreign governments, in certain circumstances the EXBS program provides some portal monitors in close coordination with NNSA based on a Memorandum of Understanding between our agencies. For instance, this MOU clarifies that NNSA agrees to maintain the equipment, as it does for other U.S.-provided portal monitors, including the substantial number provided previously by the State Department's Nonproliferation and Disarmament Fund. All of these equipment deployments are subject to the NSC's Nuclear Guidelines, and are coordinated via the State Department-chaired Export and Border Control Assistance Working Group as well as the International Nuclear Detection Working Group.

As a complement to the overall effort to build enforcement capacity, the EXBS program also provides handheld radiation detection equipment, imaging devices, and enforcement training in targeting and inspecting cargo to help partner countries prevent illicit transfers of weapons and weapons-related items, including nuclear and radioactive material.

### **Proliferation Security Initiative**

The Proliferation Security Initiative (PSI) is a global effort, launched by President Bush on May 31, 2003, to stop trafficking of weapons of mass destruction, their delivery systems, and related materials to and from states and non-state actors of proliferation concern. Its underlying premise is that our efforts in this area are enhanced through partnerships of states working in concert, employing a broad range of legal, diplomatic, economic, military, and other tools to interdict WMD-related shipments. The PSI creates the basis for practical cooperation among states in this area.

The PSI is a set of activities based on participating countries' common commitment to the PSI Statement of Interdiction Principles. It is not a formal organization. Endorsement of the Statement of Interdiction Principles by a state does not create formal "obligations", but does represent a political commitment to stop proliferation-related shipments whenever possible. The Principles are consistent with national legal authorities and relevant international law and frameworks. Participation in any given PSI activity is a voluntary national decision. We encourage PSI partners to strengthen their national legal authorities and enforcement capabilities to improve their ability to interdict WMD-related trafficking.

The primary focus of PSI is on interdicting WMD-related shipments. To prepare for interdictions, participants engage in a range of operational exercise activities. More than 50 countries have participated in one or more of the over 20 multinational PSI interdiction exercises designed to improve national capabilities and participants' ability to operate together. These exercises are hosted throughout the world by individual PSI participants. PSI participants have also conducted sophisticated simulations of interdictions to develop new and creative methods for stopping proliferation shipments. The PSI Operational Experts Group -- an expanding network of military, law enforcement, intelligence, and legal experts -- meets periodically to develop new operational concepts, organize the interdiction exercise program, share information about national legal authorities, and pursue cooperation with key industry sectors.

We are further operationalizing the PSI by pursuing and concluding bilateral shipboarding agreements. We have signed agreements with the world's largest ship registries, thereby covering much of the world's shipping tonnage. Shipboarding agreements establish key points of contact and procedures to facilitate requests to board and search vessels suspected of carrying illicit shipments of weapons of mass destruction, their delivery systems, or related materials. They also serve to deter proliferators. We are pursuing these agreements covering vessels in international waters with a number of countries.

More than 70 countries now support PSI, and the number is growing. We are working intensively to broaden the circle of countries that count themselves as PSI supporters. On June 23, Poland will host a high-level political meeting of all PSI participants, to assess the Initiative to date and plan for its continued broadening and deepening of participation and activity.

### **Nuclear Smuggling Outreach Initiative**

The State Department also enlists foreign cooperation against nuclear smuggling through a new Nuclear Smuggling Outreach Initiative, which is aimed at identifying and addressing shortcomings and gaps in nuclear smuggling security capabilities of states at risk. Through this initiative, we conduct outreach both to countries with source material as well as those at risk from nuclear smuggling activity. Our outreach builds on interagency assessments of country-specific risks that take into account existing programs and ongoing work, both by the United States and by other governments. These assessments address the capabilities of host governments to prevent, detect, and prosecute illicit trafficking in nuclear and radiological material.

Following a rigorous assessment process, an interagency team engages with officials of the at-risk state to determine its precise needs and to reach agreement on a list of priority projects designed to close the capability gaps identified in the assessment. We then work closely with potential donors in various fora to arrange funding for the priority projects identified and agreed to. The matching of priority projects to donors can occur under the auspices of the European Union, the G8's Global Partnership or directly in bilateral discussions with donor governments.

The success of the Nuclear Smuggling Outreach Initiative depends to a large degree on the willingness of the government of the at-risk country to participate and to use the assistance effectively. Assessing and engaging an at-risk country can take months, and matching suitable donors to worthy projects can take a similar period of time. Although still in a start-up phase, the Nuclear Smuggling Outreach Initiative is showing promising signs based on the initial round of assessments completed.

### **Nuclear Trafficking Response Group**

For over ten years, the State Department has chaired an inter-agency committee, the Nuclear Trafficking Response Group (NTRG) that was established pursuant to a Presidential Decision for the purpose of reducing the risk of illicit transfer of nuclear weapons, fissile materials, and other dangerous nuclear and radioactive substances to states or to terrorists. The goals of the NTRG are to develop information on smuggling-related threats, secure smuggled material, encourage foreign governments to prosecute nuclear smugglers and trace linkages between smuggling incidents and gangs. Representatives from the Departments of Energy, Defense, Justice and Homeland Security, along with other agencies, participate in the NTRG's deliberations. The functions performed by the NTRG include: identifying the material and/or verifying that an illicit transfer is or has taken place, which may include facilitating an inspection by

competent foreign and/or USG authorities; helping to secure the illicit material to prevent its transfer; obtaining a sample of the illicit material for further expert testing; tracing the diversion path of the illicit material; and facilitating criminal prosecution of traffickers. Any or all of these tasks may be performed in addressing a single incident of potential illicit trafficking or smuggling.

The NTRG obtains its information from a combination of open and classified sources, including reports from foreign governments and international organizations such as the IAEA. In addition to actions that it coordinates, the NTRG examines cases to see if actions, such as interdictions or emergency response measures, should be taken by other inter-agency groups. Much of the State Department's work in chairing the NTRG consists of facilitating foreign cooperation with U.S. Government technical experts so our experts can inspect and identify suspect materials and help foreign governments verify evidence needed to apprehend and prosecute smugglers. Successful prosecutions can help to deter smugglers and active U.S. engagement with foreign governments can encourage partner nations to take additional steps to combat nuclear smuggling.

### **Transforming our Diplomacy to Combat 21<sup>st</sup> century Nuclear Threats**

I would also like to take a moment to explain how our work in preventing nuclear smuggling fits in with the larger context of Secretary Rice's vision of transformational diplomacy. As the Secretary articulated in her Georgetown University speech, the essence of transformational diplomacy is:

“to work with our many partners around the world, to build and sustain democratic, well-governed states that will respond to the needs of their people and conduct themselves responsibly in the international system. Let me be clear, transformational diplomacy is rooted in partnership; not in paternalism. In doing things with people, not for them; we seek to use America's diplomatic power to help foreign citizens better their own lives and to build their own nations and to transform their own futures.”

Our efforts to combat nuclear smuggling and the risk of nuclear terrorism must build on this transformational vision of partnership – both at home and abroad. The many interagency and foreign partnerships that we develop and sustain in this mission will help to bring a regional and local focus to our international cooperation efforts and enhance the effectiveness of our global strategy.

A transformational approach to preventing nuclear smuggling should seek not only to provide assistance *to* foreign partners but to develop a global interoperable architecture *with* them. Recognizing that no single capability can assure success in stopping nuclear smuggling or preventing nuclear terrorism, we, as the U.S. Government, are building a global architecture that includes multiple layers and enables the U.S. and its partners to confront threats at their earliest stage of development. We call this approach a layered defense-in-depth. A layered defense against nuclear smuggling and nuclear terrorism focuses attention on stopping the flow of material at the source, detecting the movement

of material or related illicit transactions, responding to material en route to a terrorist or to a terrorist target, and mitigating consequences and attributing responsibility should an attack involving nuclear or radiological material take place.

As the Secretary has outlined, transformational diplomacy also demands that we empower our diplomats to work more closely with their interagency partners. Our initiatives in this area and the recent formation of our new International Security and Nonproliferation Bureau build on this vision of joint interagency cooperation. For example, the Proliferation Security Initiative, whose implementation is supported by our new Office of Counterproliferation Initiatives, is a Presidential-level initiative that brings together representatives from the Departments of State, Defense, Homeland Security, and Commerce, among others, to interdict shipments of WMD and related materials. Our new Office of WMD Terrorism represents the State Department in national-level strategic operational planning regarding the nexus of WMD and terrorism at the new National Counterterrorism Center and is developing a new model bilateral agreement to enable the real-time sharing of nuclear and radiological detection information with foreign partners to enable faster emergency response. The work of the International Security and Nonproliferation Bureau, as a whole, will continue to foster the necessary interagency partnerships to strengthen our ability to prevent, detect, and respond to the trafficking of nuclear and radiological materials to state, non-state, and terrorist actors of concern.

As I alluded to earlier in my testimony, transformational diplomacy emphasizes the importance of regionalizing and localizing our efforts. In combating nuclear smuggling and terrorism, we cannot remain content with one-size-fits-all global approaches. We must ensure that our strategies, initiatives, and plans are tailored to the specific conditions prevailing within our partner countries. In some, the private sector will play the lead role in improving security. In others, international organizations will be the engine of cooperation. In still others, joint interagency teams will be required to achieve mission success. Regional differences may also affect our approach. Some regions may be centers of nuclear smuggling, while others may be at greater risk from a terrorist attack enabled by a smuggling transaction occurring thousands of miles away.

Transformational diplomacy also offers us an opportunity to build new kinds of partnerships that transcend the State Department's customary relationships with foreign governments and international organizations. We must consider the appropriate role the private sector can and should play to prevent nuclear smuggling and reduce the risk of nuclear terrorism. For example, terrorists may identify potential smugglers or smuggling routes through the Internet, whose infrastructure is privately owned. Smugglers may engage in illicit financial transactions with organized crime or terrorist networks through banking institutions and nuclear and radiological material may pass through ports, airports, or intermodal transport infrastructure owned or operated by the private sector.

With this in mind, we need to make clear to the private sector the common interest we share in ensuring that their assets and infrastructure are protected from either direct attack or from exploitation by terrorist actors seeking to acquire or use nuclear or radiological

materials. We must develop voluntary public-private partnerships that offer a low-cost means to reduce the risk of nuclear smuggling and nuclear terrorism. For example, we are encouraged by the efforts underway at the port of Hong Kong to develop a pilot project to scan outgoing containers coming to the U.S. This pilot project suggests that the intermodal transport industry is becoming increasingly aware of both the reputational and transactional risks it faces from those actors who would exploit its infrastructure to transport the world's most dangerous weapons.

## **Conclusion**

The State Department has taken many steps since September 11, 2001 to reduce the risk of nuclear smuggling and enlist foreign cooperation in our efforts, but we can – and must – do more. Since 2002, we have been guided by the National Strategy to Combat Weapons of Mass Destruction, which provided the first comprehensive strategy to integrate all elements of national power to combat the threat of weapons of mass destruction. In the years ahead, we will continue to build on this strategy and work with our international partners to build a flexible global architecture capable of adapting to, confronting, and defeating the nuclear threats that lie ahead.